

to affirm, modify, or reverse its initial determination. This notice will also contain the reasons for HUD's decision.

(c) The recipient may appeal any denial of reconsideration by filing an appeal with the Assistant Secretary within 21 days of receiving the denial. The appeal shall set forth the reasons why the recipient does not agree with HUD's decision and include justification for the reconsideration.

(d) Within 21 days of receipt of the appeal, the Assistant Secretary shall review the recipient's appeal and act on the appeal. The Assistant Secretary will provide written notice to the recipient setting forth the reasons for the decision. The Assistant Secretary's decision constitutes final agency action.

§ 1000.236 What are eligible administrative and planning expenses?

(a) Eligible administrative and planning expenses of the IHBG program include, but are not limited to:

- (1) Costs of overall program and/or administrative management;
- (2) Coordination monitoring and evaluation;
- (3) Preparation of the IHP including data collection and transition costs;
- (4) Preparation of the annual performance report; and
- (5) Challenge to and collection of data for purposes of challenging the formula.

(b) Staff and overhead costs directly related to carrying out affordable housing activities can be determined to be eligible costs of the affordable housing activity or considered administration or planning at the discretion of the recipient.

§ 1000.238 What percentage of the IHBG funds can be used for administrative and planning expenses?

The recipient can use up to 20 percent of its annual grant amount for administration and planning. The recipient shall identify the percentage of grant funds which will be used in the IHP. HUD approval is required if a higher percentage is requested by the recipient. When HUD approval is required, HUD must take into consideration any cost of preparing the IHP, challenges to and collection of data,

the recipient's grant amount, approved cost allocation plans, and any other relevant information with special consideration given to the circumstances of recipients receiving minimal funding.

§ 1000.240 When is a local cooperation agreement required for affordable housing activities?

The requirement for a local cooperation agreement applies only to rental and lease-purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.

§ 1000.242 When does the requirement for exemption from taxation apply to affordable housing activities?

The requirement for exemption from taxation applies only to rental and lease-purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.

Subpart D—Allocation Formula

§ 1000.301 What is the purpose of the IHBG formula?

The IHBG formula is used to allocate equitably and fairly funds made available through NAHASDA among eligible Indian tribes. A TDHE may be a recipient on behalf of an Indian tribe.

§ 1000.302 What are the definitions applicable for the IHBG formula?

Allowable Expense Level (AEL) factor. In rental projects, AEL is the per-unit per-month dollar amount of expenses which was used to compute the amount of operating subsidy used prior to October 1, 1997 for the Low Rent units developed under the 1937 Act. The "AEL factor" is the relative difference between a local area AEL and the national weighted average for AEL.

Date of Full Availability (DOFA) means the last day of the month in which substantially all the units in a housing development are available for occupancy.

Fair Market Rent (FMR) factors are gross rent estimates; they include shelter rent plus the cost of all utilities, except telephones. HUD estimates FMRs on an annual basis for 354 metropolitan FMR areas and 2,355 non-metropolitan county FMR areas. The